

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.7190 of 2015(O&M)
Date of decision: 30.10.2015

Yashpal and another

... Petitioners

Versus

Sushma Kumari

... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. CL Sharma, Advocate for the petitioners.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

ARUN PALLI J. (Oral)

Vide order dated 31.07.2014, ejectment of the tenants-petitioners was ordered, as they failed to comply with the order of assessment of provisional rent dated 19.12.2013, passed by the Rent Controller. As even the appeal preferred against the said order failed and was dismissed vide judgment dated 21.08.2015, tenants are before this court vide this revision petition.

The conclusion arrived at by the appellate authority, affirming the order of eviction passed by the Rent Controller, reads as thus:

“6. I have heard learned counsel for the parties and have gone through the record of the case. Perusal of the order dated 19.12.2013 shows that provisional

rent was assessed by the learned Rent Controller and following order was passed:-

**Present: Sh.S.S.Saini, counsel for applicants
Sh.Anoop Sharma, Adv. Counsel for respondent**

Heard on the provisional assessment of rent. Petitioner is claiming rent @2300/- w.e.f. 1-3-2010. After going through the application for assessment of rent moved by the respondent, it goes on to show that the tenancy is admitted. The rate of rent is also admitted. The respondent claimed that he has paid the rent upto March 2012 and the rent is due w.e.f. 1.4.2012. In order to prove the said fact at this stage the respondent has not placed on record, any document/receipt. In that eventuality the Court cannot presume that the respondent has paid rent upto 3/2012. Consequently the arrears of rent @ 2300/- per month w.e.f. 1-3-2012 till August 2013 the date of filing this application come out to be 41400/-, cost is assessed Rs.1000/- along with interest 6% p.a. File be put up on 20-1-2014 for tender of provisional rent as well as for filing written reply.

**Announced
19-12-2013**

**Mahesh Kumar
Rent Controller
Hoshiarpur.**

Perusal of above said order shows that Rent Controller assessed the provisional rent of Rs.41400/-, cost of Rs.1000/- along with 6% P.A. Interest and the case was adjourned to 20-1-2014 for tender of provisional rent. However, on 20-1-2014 rent was not tendered and adjournment was requested and the learned Rent Controller adjourned to case for 27-2-2014 for tender of provisional rent. The case was taken up on 28-2-2014 as 27-2-2014 was declared holiday but on the said date tender of rent was not made. Thus, it is clear

that inspite of availing opportunities twice, the rent as assessed by learned rent controller was not tendered. It is not the case of the appellant that they have paid the provisional rent as assessed by the learned rent controller and had also paid costs but his eviction has been ordered on the ground that they have not paid the interest @ Rs.6% per annum or that the eviction has been ordered due to non payment of some part of interest which was calculated wrongly by them. In the present case inspite of availing opportunities twice, the appellants did not pay the rent and thus keeping in view the case tilted as Rakesh Wadhawan versus Jagdamba Industrial Corporation AIR-2002 Supreme Court-2004 present appellants were liable to be evicted from the demised premises.

The argument of learned counsel for the appellants that since interest was not calculated, therefore, impugned order is liable to be set aside, is totally devoid of any merits. As stated above, it not the case of the appellants that they have tendered the rent and due to non payment of exact amount of interest, their eviction has been ordered. Though the rent controller is duty bound to assess exact amount of arrears of rent, exact amount of interest and costs of petition but in the present case, appellants have not tendered even a single penny. The case law reported as 2011 (2) CCC, 290 relied upon by counsel for the appellant is not at all applicable in the present case, as in the said case the Hon'ble High Court only held that in case Rent Controller fails to assess accurate amount payable by tenant and tenant does not tender the accurate amount then tenant cannot be held liable for eviction. As stated above, no amount at all has been tendered by the appellants inspite of availing

opportunities twice. Thus, Rent Controller rightly passed the impugned order.”

Concededly, after passing of the order dated 19.12.2013, the matter was posted for tender of provisional rent on 20.01.2014. Indisputably, petitioners failed to tender the provisionally assessed rent on the adjourned date and the matter was further adjourned on the request of counsel for the petitioners to 27.02.2014. Again petitioners failed to tender the rent even on 28.02.2014 as 27.02.2014 was declared holiday. That being so, in terms of the decision rendered by the Hon'ble Supreme Court in Rakesh Wadhawan versus Jagdamba Industrial Corporation, AIR 2002 SC 2004, the court was choice-less but to order eviction of the petitioners.

Learned counsel for the petitioners could not point out as to how the conclusions that had concurrently been arrived at by both the authorities were either contrary to the position on record or suffered from any material illegality.

That being so, no interference is warranted in exercise of revisional jurisdiction, under Section 15(5) of the East Punjab Urban Rent Restriction Act, 1949. Petition being devoid of merit is accordingly dismissed.

October 30, 2015
Rajan

(Arun Palli)
Judge